



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 14 2016

REPLY TO THE ATTENTION OF

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Harland Schraufnagel  
President  
Abbyland Trucking, Inc.  
Abbyland Service Plaza  
330 Plaza Drive  
Curtiss, WI 54422

Re: Notice of Violation of the Clean Air Act

Dear Mr. Schraufnagel:

The United States Environmental Protection Agency ("EPA") is issuing the attached Notice of Violation ("NOV") to Abbyland Trucking, Inc. ("Abbyland") for violating the Clean Air Act ("CAA"), 42 U.S.C. §§ 7401-7671q, and its implementing regulations. As summarized in the attached NOV, the EPA has determined that Abbyland sold and installed parts or components for motor vehicle engines that bypass, defeat, or render inoperative elements of design of those engines that were installed by the original equipment manufacturer in order to comply with CAA emission standards. The EPA has also determined that Abbyland knew or should have known that these parts or components were offered for sale or installed for such use or put to such use. Therefore, Abbyland violated section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Reza R. Bagherian. You may contact him at (312) 886-0674, or [bagherian.reza@epa.gov](mailto:bagherian.reza@epa.gov), to request a conference. You should make the request within 10 calendar days following receipt of this letter. We will hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



Edward Nam  
Acting Director  
Air and Radiation Division

Enclosure: SBREFA Fact Sheet

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**Abbyland Trucking, Inc.  
Curtiss, Wisconsin**

Proceedings Pursuant to  
the Clean Air Act  
42 U.S.C. §§ 7521-7554

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**NOTICE OF VIOLATION  
EPA-5-16-WI-02**

**NOTICE OF VIOLATION**

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**Law Governing Alleged Violations**

This NOV arises under Part A of Title II of the CAA, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder. These laws were enacted to reduce air pollution from mobile sources of air pollution. In creating the CAA, Congress found, in part, that "the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare." CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2). Congress' purpose in creating the CAA, in part, was "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." CAA § 101(b)(1)-(2), 42 U.S.C. § 7401(b)(1)-(2).

The CAA requires the EPA to prescribe and revise, by regulation, standards applicable to the emission of any air pollutant from new motor vehicles or new motor vehicle engines which cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. CAA §§ 202(a)(1) and (3)(B), 42 U.S.C. §§ 7521(a)(1) and (3)(B). Heavy duty diesel engines ("HDDEs") are one category of motor vehicle engine for which the EPA has promulgated emission standards. *See generally* 40 C.F.R. Part 86, Subpart A (setting emission standards for HDDEs). As required by the CAA, the HDDE emission standards "reflect the greatest degree of emission reduction achievable through the application of [available] technology." CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i). Accordingly, the EPA has

established increasingly stringent HDDE emission standards. 40 C.F.R. §§ 86.004-11, 86.007-11, and 86.099-11.

HDDE manufacturers employ many devices and elements of design to meet emission standards. *Element of design* means “any control system (i.e., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.”

40 C.F.R. § 86.094-2. For example, HDDE manufacturers employ retarded fuel injection timing as a primary emission control device for emissions of oxides of nitrogen (“NO<sub>x</sub>”). Manufacturers also employ certain hardware devices as emission control systems to manage and treat HDDE exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such devices include diesel particulate filter (“DPF”), exhaust gas recirculation (“EGR”), and selective catalytic reduction (“SCR”). Modern HDDEs are equipped with electronic control modules (“ECMs”). ECMs continuously monitor engine and other operating parameters and control the emission control devices, such as the fueling strategy.

The CAA makes it a violation “for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.” CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).

To ensure that every HDDE which may legally be sold, offered for sale, imported, delivered for introduction into commerce, or introduced into commerce in the United States (collectively, introduced into commerce) satisfies the applicable emission standards, the EPA runs a certification program. Under this program, the EPA issues certificates of conformity (“COCs”), thereby qualifying motor vehicles and motor vehicle engines, including HDDEs, for introduction into commerce. 40 C.F.R. § 86.007-30. To obtain a COC, an HDDE manufacturer must submit a COC application to the EPA for each engine family and each model year in which it intends to manufacture or import HDDEs for introduction into commerce. The COC application must include, among other things, identification of the covered engine family, a description of the HDDEs and their emission control systems, all auxiliary emission control devices (“AECDS”) and the engine parameters they sense, as well as test results from a test engine showing that the engine satisfies the applicable emission standards.<sup>1</sup>

### **Alleged Violations**

Abbyland sold, offered for sale, or installed software and hardware used on HDDEs or caused those actions. These products were manufactured by Performance Diesel, Inc. (“PDI”). A principal effect of these products was to bypass, defeat, or render inoperative elements of the HDDEs’ design that control emissions of regulated air pollutants. Specifically, Abbyland rendered inoperative the original engine manufacturers’ software (insofar as it controlled the

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<sup>1</sup> 40 C.F.R. §§ 86.004-21, 86.007-21, 86.094-21, and 86.096-21; see also EPA, *Advisory Circular Number 24-3: Implementation of Requirements Prohibiting Defeat Devices for On-Highway Heavy-Duty Engines* (Jan. 19, 2001).

fueling strategy and other elements of design) and replaced it with the PDI software that, among other things, controlled the fueling strategy. The software purportedly increased engine power and fuel economy. Abbyland also rendered inoperative the original engine manufacturers' hardware, including exhaust gas recirculation devices and exhaust after-treatment devices, which are devices and elements of design that HDDE manufacturers employ to meet emission standards, and which they must describe in detail in their applications to EPA for COCs.

On June 3, 2015, EPA representatives inspected the Abbyland facility in Curtiss, Wisconsin. During the inspection, EPA representatives requested invoices related to the Abbyland's sale and installation of PDI products. Abbyland provided the EPA representatives with invoices for the period beginning in 2011 and ending on the date of the inspection.

Based on the information obtained during EPA's June 3, 2015 inspection, Abbyland has sold, offered for sale, and/or installed, PDI software and hardware that impacted emission control devices on HDDEs, identified in the table below:

<b>Invoice Date</b>	<b>Invoice No.</b>	<b>PDI Product No.</b>	<b>Engine make</b>	<b>Effect on Emission Control Device</b>
3/26/2012	17693	PDI714001	Detroit	Alter Fuel Injection Timing
4/27/2012	19186	PDI714001	Detroit	Alter Fuel Injection Timing
5/7/2012	19293	PDI714001	Detroit	Alter Fuel Injection Timing
5/9/2012	19824	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
5/14/2012	20073	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
5/16/2012	20144	PDI715001	Cummins	Alter Fuel Injection Timing
5/23/2012	20514	PDI715001-5	Cummins	Bypass Emission Controls (DPF)
6/4/2012	21198	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
7/18/2012	23196	PDI714001-2	Detroit	Bypass Emission Controls (EGR)
9/5/2012	25837	PDI715001-2	Cummins	Bypass Emission Controls (DPF)
9/7/2012	26278	PDI715001-2	Cummins	Bypass Emission Controls (EGR)
9/11/2012	26449	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
9/12/2012	26517	PDI714001-2	Detroit	Bypass Emission Controls (EGR)
10/16/2012	28353	PDI7161201-1	Caterpillar	Bypass Emission Controls (DPF)
10/22/2012	28657	PDI714101	Detroit	Alter Fuel Injection Timing
10/29/2012	28971	PDI715001-4	Cummins	Bypass Emission Controls (DPF)
11/2/2012	29406	PDI7161202	Caterpillar	Alter Fuel Injection Timing
11/26/2012	30391	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
12/4/2012	30676	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
12/26/2012	31329	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
12/26/2012	31350	PDI7161201-1	Caterpillar	Bypass Emission Controls (DPF)
12/29/2012	31337	PDI715001-4	Cummins	Bypass Emission Controls (DPF)
1/4/2013	31603	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
2/22/2013	33286	PDI715001-4	Cummins	Bypass Emission Controls (DPF)
3/7/2013	33698	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)



Invoice Date	Invoice No.	PDI Product No.	Engine make	Effect on Emission Control Device
3/21/2013	33665	PDI716701	Caterpillar	Alter Fuel Injection Timing
3/21/2013	34093	PDI715001-4	Cummins	Bypass Emission Controls (DPF)
3/22/2013	34136	PDI7161201-2	Caterpillar	Bypass Emission Controls (DPF)
3/25/2013	34148	PDI7161201-2	Caterpillar	Bypass Emission Controls (DPF)
3/27/2013	34278	PDI716701	Caterpillar	Alter Fuel Injection Timing
4/11/2013	34654	PDI714001	Detroit	Alter Fuel Injection Timing
5/7/2013	35395	PDI715001-4	Cummins	Bypass Emission Controls (DPF)
5/14/2013	35749	PDI715001-2	Cummins	Bypass Emission Controls (EGR)
5/16/2013	35523	PDI7161201-3	Caterpillar	Bypass Emission Controls (DPF)
5/22/2013	35936	PDI715001-2	Cummins	Bypass Emission Controls (EGR)
6/17/2013	36706	PDI7161201-2	Caterpillar	Bypass Emission Controls (DPF)
6/27/2013	37026	PDI7161201-4	Caterpillar	Bypass Emission Controls (DPF)
7/5/2013	37281	PDI7161201	Caterpillar	Bypass Emission Controls (DPF)
7/19/2013	37704	PDI7161201-4	Caterpillar	Bypass Emission Controls (DPF)
7/26/2013	37908	PDI715001-4	Cummins	Bypass Emission Controls (DPF)
8/6/2013	38163	PDI7161201-2	Caterpillar	Bypass Emission Controls (DPF)
8/22/2013	38544	PDI7161201-4	Caterpillar	Bypass Emission Controls (DPF)
9/3/2013	38855	PDI714001-2	Detroit	Bypass Emission Controls (EGR)
11/22/2013	40790	PDI715001-4	Cummins	Bypass Emission Controls (DPF)
12/9/2013	41569	PDI714001	Detroit	Alter Fuel Injection Timing

#### Enforcement Authority

The EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Persons violating Section 203(a)(3)(B) of CAA, 42 U.S.C. § 7522(a)(3)(B), are subject to an injunction under Section 204 of CAA, 42 U.S.C. § 7523, and a civil penalty of up to \$3,750 for each violation. CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.

Date

6/14/14

Edward Nam

Acting Director

Air and Radiation Division

## CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-16-WI-02, by Certified Mail, Return Receipt Requested, to:

Harland Schraufnagel  
President  
Abbyland Trucking, Inc.  
Abbyland Service Plaza  
330 Plaza Drive  
Curtiss, Wisconsin 54422

On the 14 day of June 2016.



Loretta Shaffer  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7011 1150 0000 2640 8251